

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2300 of 1997

For Approval and Signature:

Hon'ble THE CHIEF JUSTICE MR. K.SREEDHARAN and
MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed
to see the judgements? No

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3. Whether Their Lordships wish to see the fair copy
of the judgement? No

4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?
No

PEOPLE'S UNION FOR CIVIL LIBERTIES

Versus

STATE OF GUJARAT

Appearance:

MR GIRISH PATEL for Petitioner
GOVERNMENT PLEADER for Respondent No. 1
MR DA BAMBHANIA for Respondent No. 3
M/S TRIVEDI & GUPTA for Respondent No. 4

CORAM : THE CHIEF JUSTICE MR. K.SREEDHARAN and
MR.JUSTICE A.R.DAVE

Date of decision: 04/03/98

C.A.V. JUDGMENT (Per A.R. Dave, J.)

Rule. Service of rule is waived by Learned Government Solicitor Shri D.A. Bambhania for respondents Nos. 1 to 3 and Learned Advocate Shri Kamal Trivedi for respondent No. 4. With consent of the learned advocates, the petition is finally heard today.

2. By way of Public Interest Litigation, the petitioner-Peoples Union for Civil Liberties has approached this Court with a grievance that the provisions of Sections 41B, 41C, 41E, 41F and 41G of the Factories Act, 1948 (hereinafter referred to as 'the Act') are not being enforced by the respondent Government authorities.

3. Ld. Advocate Shri Girish Patel appearing for the petitioner has submitted that number of factories manufacturing chemicals and involved in hazardous processes have been set up in industrial area of Ankleshwar and Nandesari in Districts Bharuch and Vadodara respectively. It has been submitted by Shri Patel that as the said factories involved in hazardous processes are a menace to not only workers of the factories but they also adversely affect environment and health of persons living in the vicinity. He has submitted that so as to see that there is a strict supervision of the government authorities on the factories having hazardous processes, Chapter IV-A has been included in the Act in 1987. By virtue of insertion of the said Chapter, Sections 41A to 41H have been enacted with a view to seeing that information referred to in sec. 41B of the Act is disclosed to Site Appraisal Committee constituted under sec. 41A of the Act. By enforcing provisions of the sections referred to hereinabove, the respondent government authorities can have a vigilant eye over hazardous processes and can also ensure safety measures in the factories involving hazardous processes.

4. It has been submitted by Shri Patel that though the said provisions were enacted in 1987, the respondent authorities concerned with enforcement of the said provisions have not acted properly and, therefore, they should be directed to enforce provisions of sections 41B, 41C, 41E, 41F and 41G of the Act. It has also been prayed that if the said provisions are violated by any of the factories, the respondent authorities should take appropriate action under provisions of sec. 96A of the Act so that the purpose with which the said sections have been enacted can be duly achieved.

5. In pursuance of notice issued by this Court, ld. Government Solicitor Shri Bambhania has appeared for respondents Nos. 1, 2 and 3 and has placed on record a report of the Chief Inspector of Factories, Gujarat State, respondent No.3 herein. It has been submitted by ld. Govt. Solicitor Shri Bambhania that, in fact, the respondent government authorities have already taken appropriate action for enforcement of the sections referred to hereinabove. He has also placed on record names of factories involved in hazardous processes set up in industrial areas of Nandesari and Ankleshwar. The said report reveals that officers functioning under respondent No.3 have already taken appropriate actions for enforcement of provisions of the sections referred to hereinabove. It has also been submitted by ld. Govt. Solicitor Shri Bambhania that in fact factory inspectors had visited several factories involving hazardous processes and appropriate legal actions have been initiated against occupiers of factories who were found to be not complying with provisions of sections 41B, 41C or 41G of the Act. So as to substantiate his submission, he has placed on record a list giving names of 22 defaulting factories situated in Nandesari which were inspected during May, June and July 1997. Appropriate legal actions are being initiated against the occupiers of the said factories. It has also been submitted by Shri Bambhania that due efforts are being made by respondent No.3 and his subordinate officers to see that the provisions of the sections referred to hereinabove are being enforced and legal actions are also being initiated against factories which are not strictly complying with the provisions of the said sections. He has, therefore, submitted that as the respondent authorities have already taken appropriate actions, the petition deserves to be rejected.

6. On the other hand, ld. Advocate Shri Girish Patel has submitted that actions taken by office of respondent No.3 are not adequate and they had become

active only after filing of the present petition. It has also been submitted by him that several representations made to respondent No.3 or his officers were not looked into by the said officers and appropriate steps had not been taken for non-compliance of the sections referred to hereinabove.

7. After hearing the ld. Advocates and upon perusal of the report submitted by respondent No.3, we are prima facie satisfied that actions have been taken by respondent No.3 to see that provisions of sections 41B, 41C, 41E, 41F and 41G are enforced. We, however, feel that still office of respondent No.3 should become more effective and should take appropriate action against all defaulting factories. It has been suggested by ld. Advocate Shri Girish Patel appearing for the petitioner that there are certain factories which are still not complying with the provisions of sections 41B, 41C, 41E, 41F and 41G of the Act and, therefore, respondent No.3 should be more vigilant in performance of his duties.

8. Though we note at this stage that respondent No.3 and his office has taken action for enforcement of the sections referred to hereinabove, but, if any non-compliance of any of the sections referred to hereinabove by any of the occupiers has escaped his attention and if such a fact is brought to his notice by the petitioner, we are sure that respondent No.3 shall take appropriate action to see that provisions of sections 41B, 41C, 41E, 41F and 41G are strictly enforced so as to see that the purpose with which the said sections have been enacted is duly fulfilled.

9. In the circumstances, we direct that if the petitioner draws attention of respondent No.3 to any violation of provisions of sections 41B, 41C, 41E, 41F or 41G, respondent No.3 shall look into the allegations or averments made by the petitioner in that behalf and shall take appropriate action after causing necessary inquiry within a period of 3 months from the date of receipt of such an intimation by him. He shall also inform the petitioner about the actions taken by him in pursuance of the information given by the petitioner.

10. In view of the above direction given to respondent No.3, the petition is disposed of accordingly. Rule is made absolute to the above extent with no order as to costs.

(A.R. Dave, J.)

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